

Legislative consideration of use of photo-monitoring system to enforce traffic light signals. Provides that prior to considering any legislation authorizing an authority to use photo-monitoring system to enforce traffic light signals, also known as "photo-red," the locality must adopt a resolution requesting the General Assembly for such authority and explaining the need for using photo-red. Such resolution must be submitted to the committee of the General Assembly considering such legislation. The bill further provides that the localities that were authorized to use photo-red prior to July 1, 2001, and have in fact been using photo-red may continue to do so until July 1, 2005. After July 1, 2005, such localities must also be granted authority to use photo-red by legislation enacted pursuant to the requirements of this bill.

A BILL to amend and reenact § 46.2-833.01 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 30-19.06 and 46.2-833.01:01, relating to legislative consideration of use of photo-monitoring systems to enforce traffic light signals and the use of such systems by localities.

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-833.01 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 30-19.06 and 46.2-833.01:01 as follows:

§ 46.2-833.01. Use of photo-monitoring systems to enforce traffic light signals; penalty.

A. ~~The governing body of any city having a population of more than 390,000, any city having a population of at least 200,000 but less than 225,000, any county having the urban county executive form of government, any county adjacent to such county, and any city or town adjacent to or surrounded by such county except any county having the county executive form of government and the cities surrounded by such county a~~
locality that has been authorized to use photo-monitoring systems to enforce traffic light signals by a legislation enacted pursuant to § 30-19.06 may provide by ordinance for the establishment of a demonstration program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal photo-monitoring systems at no more than twenty-five intersections within each locality at any one time.

B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality.

C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a technician employed by a locality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

D. In the prosecution of an offense established under this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of this section, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he or she was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

E. For purposes of this section "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation-monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of §§ 46.2-833, 46.2-835, or § 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall exceed fifty dollars nor shall it include court costs.

G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to the address of the owner, lessee, or renter of the vehicle as shown, in the case of vehicle owners, in the records of the Department of Motor Vehicles or, in the case of vehicle lessees or renters, in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection D of this section and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons.

H. In any action at law brought by any person or entity as the result of personal injury or death or damage to property, such evidence derived from a photo-monitoring system shall be admissible in the same method prescribed as required in the prosecution of an offense established under this section without the requirements of authentication as otherwise required by law.

I. On behalf of a locality, a private entity may not obtain records regarding the registered owners of vehicles which fail to comply with traffic light signals. A private entity may enter into an agreement with a locality to be compensated for providing the traffic light signal violation-monitoring system or equipment, and all related support services, to include consulting, operations and administration. However, only an employee of the

locality may swear to or affirm the certificate required by subsection C.

J. ~~The provisions of this section shall expire on July 1, 2005.~~

§ 30-19.06. Legislative consideration of use of photo-monitoring systems to enforce traffic light signals; resolution of local governing body required.

A. When any legislation granting a locality authority to use photo-monitoring systems to enforce traffic light signals is referred to a committee of the General Assembly, the chairman of the committee shall require, prior to consideration by the committee of the legislation, a resolution adopted, in accordance with the requirements of this section, by the governing body of the county, city or town wherein such use of photo-monitoring system is being proposed.

B. The resolution required under this section shall be adopted only after holding a public hearing with respect thereto, at which citizens shall have an opportunity to be heard. The local governing body shall publish notice of the hearing once in a newspaper of general circulation in the county, city or town wherein such use of photo-monitoring system is being proposed. The public hearing shall not be held until at least five days after the notice is published in the newspaper. Before adopting any such resolution the governing body shall consider the following issues:

1. The revenue impact to the locality;

2. Existence of an intersection that meets one of the following:

a. An intersection where the per vehicle accident rate is twice that of a comparable intersection;

b. An intersection where the total lane count is twelve or more so that such large lane count makes manual policing of the intersection impractical;

c. An intersection that is physically arrayed in such manner that an officer on foot or in a patrol car cannot apprehend a violator without subjecting pedestrians, motorists or himself to undue risk; or

d. An intersection that does not have an area where a motorist can be safely stopped outside the roadway within 500 yards of the intersection, or an area within 500 yards where the motorist can be stopped without impeding normal business or social activities; and

3. Any other criteria, facts and circumstances that the governing body deems pertinent to the adoption of such resolution.

C. A locality shall not use photo-monitoring system for the sole purpose of raising revenue.

D. Any resolution adopted pursuant to this section shall state therein that the provisions of subsection B have been examined and considered by the local governing body and shall certify that a photo-monitoring system will not be used for the sole purpose of raising revenue.

E. The enactment of any statute authorizing a locality to use a photo-monitoring system to enforce traffic light signal, other than pursuant to § 46.2-833.01:01, shall be conclusive proof that the provisions of this section have been satisfied.

§ 46.2-833.01:01. Localities authorized to use photo-monitoring system prior to July 1, 2001.

Any locality that was authorized to use a photo-monitoring system to enforce traffic light signals prior to July 1, 2001, pursuant to § 46.2-833.01 as that section was effective on June 30, 2001, and has in fact been using a photo-monitoring system to enforce traffic light signals may continue to do so until July 1, 2005. Such locality may use a photo-monitoring system to enforce traffic light signals on and after July 1, 2005, only if such locality is authorized to do so by legislation enacted pursuant to § 30-19.06.

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